

Plaintiff designates Orange County as the place of trial. The basis of venue is the situs of the incident and the residence of the plaintiff.

SUPREME COURT : STATE OF NEW YORK
COUNTY OF ORANGE

-----X
MICHAEL L. DAYTON,

Plaintiff,

-against-

WESLEY GLEN FORT, ALBERT L. PROVOST,
Individually, and ALBERT L. PROVOST
d/b/a JUGGIE'S CONCESSIONS,

Defendants.
-----X

SUMMONS

Index **20:07 7091**

Date Filed: **JUL 31 2007**

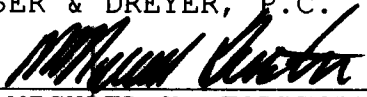
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer or, if the Complaint is not served with this Summons, to serve a notice of appearance on the plaintiff's attorneys, SILVER, FORRESTER, SCHISANO, LESSER & DREYER, within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally served upon you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: New Windsor, New York
July 20, 2007

Yours, etc.,

SILVER, FORRESTER, SCHISANO
LESSER & DREYER, P.C.


BY: MICHAEL H. FORRESTER, ESQ.
Attorneys for Plaintiffs
3250 Route 9W
New Windsor, New York 12553

TO:
WESLEY GLEN FORT
c/o Secretary of State

ALBERT L. PROVOST d/b/a
JUGGIE'S CONCESSIONS
c/o Secretary of State

ALBERT L. PROVOST, Individually
c/o Secretary of State

SUPREME COURT : STATE OF NEW YORK
COUNTY OF ORANGE

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MICHAEL L. DAYTON,

Plaintiff,

-against-

WESLEY GLEN FORT, ALBERT L. PROVOST,
Individually, and ALBERT L. PROVOST
d/b/a JUGGIE'S CONCESSIONS,

Defendants.
-----X

VERIFIED COMPLAINT

Index No.: **2007 7091**

Date Filed: **JUL 31 2007**

Plaintiff, MICHAEL L. DAYTON, by his attorneys, SILVER,
FORRESTER, SCHISANO, LESSER & DREYER, P.C., as and for his
Verified Complaint herein alleges as follows:

1. At all times hereinafter mentioned, plaintiff resided
and continues to reside in Newburgh, County of Orange, State of
New York.

2. Upon information and belief, at all times hereinafter
mentioned, the defendant, WESLEY GLEN FORT, resided and continues
to reside in Huntington Beach, California.

3. Upon information and belief, at all times hereinafter
mentioned, the defendant, ALBERT L. PROVOST, resided and
continues to reside in Gibsonton, Florida.

4. Upon information and belief, at all times hereinafter
mentioned, the defendant, ALBERT L. PROVOST does business as
JUGGIE'S CONCESSIONS, with its principal place of business
located in the State of Florida.

5. Upon information and belief, at all times hereinafter
mentioned, defendant, WESLEY GLEN FORT, was the operator of a

1999 Ford motor vehicle bearing Florida State license plate number IG1 KGY.

6. Upon information and belief, at all times hereinafter mentioned, defendant, ALBERT L. PROVOST, was the owner of a 1999 Ford motor vehicle bearing Florida State license plate number IG1 KGY.

7. At all times pertinent hereto, the defendant, WESLEY GLEN FORT, operated the aforesaid motor vehicle with the express and/or implied permission, consent and knowledge of the aforesaid defendant owner, ALBERT L. PROVOST.

8. Upon information and belief, defendant, WESLEY GLEN FORT, was operating the aforementioned 1999 Ford motor vehicle bearing Florida State license plate number IG1 KGY during the course of his employment for defendant, JUGGIE'S CONCESSIONS.

9. Upon information and belief, at all times hereinafter mentioned, Johnston Street, in the vicinity of Campbell Street, in the City of Newburgh, County of Orange, State of New York, was and continues to be a public highway and was the location of the accident herein.

10. That on or about June 10, 2007, the plaintiff was lawfully proceeding as a pedestrian on the aforementioned roadway.

11. That on or about June 10, 2007, the defendant, WESLEY GLEN FORT, operated the aforementioned motor vehicle in such a manner so as to cause same to come into contact with the person of the plaintiff.

12. That the aforesaid collision and serious personal injuries sustained by plaintiff were caused solely by reason of the negligence of the defendants without any negligence of the plaintiff contributing thereto.

13. The defendants were negligent, reckless and careless in causing and/or permitting the motor vehicle to be operated in such a manner and at such a rate of speed which was unreasonable and imprudent under the prevailing traffic and pedestrian conditions; in causing and/or permitting their motor vehicle to come into contact with the plaintiff; in operating their motor vehicle in such a manner that they knew or should have known of the danger created to pedestrians in the area; in operating their motor vehicle in such a manner so as to create traffic conditions which were dangerous to pedestrians; in failing to take those steps necessary to avoid the contingency which occurred herein; in allowing and/or permitting their motor vehicle to be operated at an excessive rate of speed; in failing to keep a proper lookout; and in failing to stop and/or slow down to avoid the contingency which occurred.

14. That by reason of the foregoing, the plaintiff was caused to sustain severe and serious injuries to his mind and body, some of which, upon information and belief, are permanent with permanent effects of pain, disability, disfigurement and loss of body function. Further, this plaintiff was caused to expend and become obligated for diverse sums of money for the purpose of obtaining medical care and/or cure in an effort to

alleviate the suffering and ills sustained as a result of this accident; and upon information and belief, may continue in that way into the future and suffer similar losses.

15. Furthermore, this plaintiff sustained a serious injury as defined in the Insurance Law, Section 5102(d) of the State of New York, effective September 1, 1984.

16. This action falls within one or more of the exceptions set forth in C.P.L.R. 1602.

AS AND FOR A FIRST AND SEPARATE CAUSE OF ACTION

17. Plaintiff repeats reiterates and realleges each and every allegation contained in paragraphs "1" through "16" inclusive with the same force and effect as if more fully set forth herein.

18. The aforementioned injuries to plaintiff were caused as a result of the negligence, recklessness and carelessness of the defendants, without any negligence of the plaintiff contributing thereto.

19. By reason of the negligence of the defendants as aforesaid, the plaintiff has suffered severe personal injuries, pain and suffering, distress and disability.

20. By reason of the foregoing, this plaintiff was caused to sustain severe and serious personal injuries to his mind and body, some of which, upon information and belief, are permanent with permanent effects of pain, disability, disfigurement and loss of body function. Further, this plaintiff was caused to expend and become obligated for diverse sums of money for the purpose of

obtaining medical care and/or cure in an effort to alleviate the suffering and ills sustained as a result of this incident, the plaintiff was caused to lose substantial periods of time from his normal vocation and upon information and belief, may continue in that way into the future and suffer similar losses.

21. By reason of the foregoing, the plaintiff, MICHAEL L. DAYTON, has been damaged in a sum, which the jury would find to be fair, adequate, and just and exceeds the jurisdictional limits of all lower Courts.

WHEREFORE, plaintiff, MICHAEL L. DAYTON, demands judgment against the defendants, WESLEY GLEN FORT, ALBERT L. PROVOST, Individually, and ALBERT L. PROVOST d/b/a JUGGIE'S CONCESSIONS, as follows:

a. On behalf of the plaintiff, MICHAEL L. DAYTON, for the First Cause of Action, in a sum, which the jury would find to be fair, adequate, and just; and

b. Together with the costs and disbursements of this action, and for other and further relief as to this Court may seem just and proper.

Dated: New Windsor, New York
July 20, 2007

Yours, etc.,

SILVER, FORRESTER, SCHISANO,
LESSER & DREYER, P.C.

By: 

MICHAEL H. FORRESTER

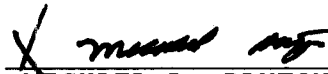
Attorneys for Plaintiff
3250 Route 9W
New Windsor, New York 12553
(845) 562-9020

VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF ORANGE)


MICHAEL L. DAYTON, being duly sworn, says:

I am the plaintiff in the action herein; I have read the annexed COMPLAINT and know that the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.



MICHAEL L. DAYTON

Sworn to before me on
the 25th day of July, 2007.



NOTARY PUBLIC

NANCY R. PLATE
Notary Public, State of New York
Qualified in Dutchess County
Registration No. 01PL6130804
Commission Expires July 25, 2009

Index No.

Year 20

SUPREME COURT STATE OF NEW YORK : COUNTY OF ORANGE

MICHAEL L. DAYTON,

Plaintiff,

-against-

WESLEY GLEN FORT, ALBERT L. PROVOST, Individually, and ALBERT L. PROVOST d/b/a JUGGIE'S CONCESSIONS,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

SILVER, FORRESTER, SCHISANO, LESSER & DREYER

Attorneys for

Plaintiff

3250 ROUTE 9W
NEW WINDSOR, N.Y. 12553
(845) 562-9010

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated:

Signature.....

Print Signer's Name

is hereby admitted.

Service of a copy of the within

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

☐
NOTICE OF
ENTRY

that the within is a (certified) true copy of a
entered in the office of the clerk of the within named Court on

☐
NOTICE OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the
Hon. one of the judges of the within named Court on
at 20, at
on

Dated:

SILVER, FORRESTER, SCHISANO, LESSER & DREYER

Attorneys for

To:

Attorney(s) for

710-1207

TO: THE COUNTY CLERK OF ORANGE COUNTY

Application for INDEX NUMBER pursuant to
Section 8018 of CPLR

 X SUPREME

 COUNTY CLERK

2007 7091

Space below to be TYPED or PRINTED by Applicant
FULL TITLE OF ACTION OR PROCEEDING

JUL 31 2007

MICHAEL L. DAYTON,

Plaintiff,

-against-

WESLEY GLEN FORT, ALBERT L. PROVOST, Individually,
and ALBERT L. PROVOST d/b/a JUGGIE'S CONCESSIONS,

Defendants.

Silver, Forrester, Schisano, Lesser & Dreyer, P.C.

3250 Route 9W South, New Windsor, NY 12553

Name and Address of Attorney for Plaintiff or Petitioner

Name and Address of Attorney for Defendant or Respondent

Michael H. Forrester, Esq., of Silver, Forrester, et al

Name of Applicant

SUBMITTED PAPERS ARE: (Please check below)

 X Summons & Complaint

 Order to Show Cause

 Summons w/Notice

 Poor Person Afft./Atty's Cert.

 Notice of Petition

 Other:

 Petition

THIS FORM MUST BE COMPLETED AND SIGNED BY APPLICANT:

(signature)

SPACE BELOW FOR OFFICE USE ONLY

REQUISITIONED BY: Date:

 Date:

 Date:

RECORDED/FILED
07/31/2007/ 13:10:54
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE # 20070084549
SUP / BK 05039 PG 1646
RECORDING FEES 210.00
SUPREME# 007091-2007
Receipt#768940 ffk



Silver, Forrester, Schisano, Lesser & Dreyer, P.C.

ATTORNEYS AND COUNSELORS AT LAW

3250 ROUTE 9W

NEW WINDSOR, NEW YORK 12553

(845) 562-9020 (845) 562-7570

(845) 561-4441

(800) 736-8556

FAX: (845) 562-9025

FAX: (845) 562-9351

BARRY B. SILVER (N.Y. & FL. BARS)

MICHAEL H. FORRESTER

RICHARD SCHISANO

SOL LESSER

SARAH ROSENBLATT DREYER (N.Y. & CT. BARS)

DARRYL J. DREYER

MICHAEL A. FERRARO

REFER TO FILE # _____

8052

September 4, 2007

Orange County Clerk
Orange County Government Center
255-275 Main Street
Goshen, New York 10924

Re: MICHAEL L. DAYTON v. WESLEY GLEN FORT, et al
Index No.: 2007/7091

Dear Sir/Madam:

Enclosed please find an original Affidavit of Service of the defendant, Albert L. Provost, for the Summons and Complaint in regard to the above matter. Kindly file same under the index number listed above and return a stamped copy in the self-addressed envelope provided to show us the filing date.

Thank you.

Very truly yours,

SILVER, FORRESTER, SCHISANO, LESSER & DREYER, P.C.

Michael Forrester

BY: MICHAEL H. FORRESTER, ESQ.

MHF/np

Enclosures

AFFIDAVIT OF SERVICE THROUGH THE SECRETARY OF STATE

Index # 2007 7091

Purchased/Filed: July 31, 2007

STATE OF NEW YORK

SUPREME COURT

ORANGE COUNTY

Michael L. Dayton

Plaintiff

against

Wesley Glen Fort, et al

Defendant

STATE OF NEW YORK
COUNTY OF ALBANY

SS.:

Jessica Miller, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; that on August 28, 2007, at 2:00 pm, at the office of the Secretary of State of the State of New York in the City of Albany, New York deponent served the annexed
Summons and Verified Complaint

on

Albert L. Provost

, the

Defendant in this action, by delivering to and leaving with Carol Vogt, AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, 1 true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of 10 dollars; That said service was made pursuant to Section 253 Vehicle and Traffic Law.

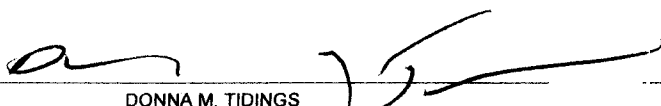
Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Description of the person served: Approx. Age: 43 Approx. Wt: 118 Approx. Ht: 5'

Color of skin: White Hair color: Brown Sex: F Other: _____

Sworn to before me on this

30th day of August, 2007


DONNA M. TIDINGS
NOTARY PUBLIC, State of New York
No. 01T14898570, Qualified in Albany County
Commission Expires June 15, 2011


Jessica Miller

Invoice/Work Order # SP0706917

FILED
ORANGE COUNTY CLERK
2007 SEP 10 A 11:12